

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DWIGHT CAMPBELL,

Plaintiff,

v.

Case No. 06-10847
Hon. Gerald E. Rosen

WONDERLAND MUSIC COMPANY,

Defendant.

/

ORDER OF DISMISSAL UNDER 28 U.S.C. § 1915(e)(2)(B)

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on June 8, 2006

PRESENT: Honorable Gerald E. Rosen
United States District Judge

Plaintiff Dwight Campbell submitted his *pro se* complaint in this case on February 27, 2006, alleging that Defendant Wonderland Music Company improperly failed to return certain down payments he allegedly made in 1996. Accompanying Plaintiff's complaint was an application to proceed *in forma pauperis*, which Judge Cook granted before transferring the case to this Court as a companion to Case No. 05-72292. Having reviewed the allegations of Plaintiff's now-filed complaint, the Court finds that this suit must be dismissed under 28 U.S.C. § 1915(e)(2)(B)(i) as frivolous.

Under § 1915(e)(2)(B)(i), upon permitting a plaintiff to proceed *in forma pauperis*, the Court nevertheless may "dismiss the case at any time if the court determines that . . .

the action . . . is frivolous.” See also Gibson v. R.G. Smith Co., 915 F.2d 260 (6th Cir. 1990). The Supreme Court has defined a “frivolous” action as one which “lacks an arguable basis either in law or in fact.” Neitzke v. Williams, 490 U.S. 319, 325, 109 S. Ct. 1827, 1831-32 (1989).

The present suit is readily characterized as frivolous under this standard, in light of the brute fact that Plaintiff’s complaint is *word-for-word identical* to the one he filed to commence the companion Case No. 05-72292.¹ Defendant responded to the complaint in that case by filing a motion to dismiss, and this motion remains pending before Magistrate Judge Scheer. Under these circumstances, the Court sees no reason to permit a second suit to go forward, where Plaintiff’s entitlement to relief can (and will) be fully addressed and conclusively determined in the course of his earlier-filed action.

For these reasons,

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that this case is DISMISSED under 28 U.S.C. § 1915(e)(2)(B).

Dated: June 8, 2006

s/Gerald E. Rosen

Gerald E. Rosen

United States District Judge

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 8, 2006, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry

Case Manager

¹Notably, in the civil cover sheet accompanying his present complaint, Plaintiff failed to disclose the existence of the identical companion case.